



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 25, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0447

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 - Using Force (1) Use of Force: When Authorized.	Not Sustained - Lawful and Proper (Expedited)
# 2	15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 - Using Force (1) Use of Force: When Authorized.	Not Sustained - Lawful and Proper (Expedited)
# 2	15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.	Not Sustained - Unfounded (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	8.200 - Using Force (1) Use of Force: When Authorized.	Not Sustained - Lawful and Proper (Expedited)
# 2	15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.	Not Sustained - Unfounded (Expedited)

Named Employee #4

Allegation(s):		Director's Findings
# 1	8.200 - Using Force (1) Use of Force: When Authorized.	Not Sustained - Lawful and Proper (Expedited)
# 2	15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.	Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

On February 19, 2022, officers responded to an assault call. An anonymous Complainant alleged that Named Employees #1, #2, #3, and #4 (NE#1-4) assaulted Community Member #1 (CM#1). The Complainant further alleged that NE#1-4 falsified statements about CM#1's arrest.



ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. That means OPA, with the Office of Inspector General's agreement, believed it could reach and issue recommended findings based on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

OPA received an anonymous complaint alleging that the Named Employees assaulted CM#1 and lied in their reports/statements. The Complainant provided no contact information, so OPA could not arrange an interview.

B. Body-Worn Video (BWV) & Computer-Aided Dispatch (CAD) Information

OPA reviewed the Named Employees' and Witness Employees' BWV. OPA also reviewed CAD data for the call. On February 19, 2022, around 1:57 AM, NE#1—the primary officer—was dispatched to an assault near 315 2nd Ave S.

In summary, BWV showed:

NE#1 arrived and saw a disturbance involving several people in a parking lot. NE#1 ordered the crowd to disperse. Community Member #2 (CM#2)—CM#1's companion—attempted to restrain CM#1 as he advanced toward an unknown male. NE#1 directed CM#1, CM#2, and the unidentified male to return to leave. The unknown male left, but CM#1 and CM#2 stayed in the parking lot with NE#1. NE#1 asked, "Do you want to go to jail? Go home." CM#2 attempted to restrain CM#1 as CM#1 advanced toward NE#1 and other officers, swinging his fists.

CM#1 punched NE#1 in the face twice. NE#1 fell to the ground. CM#1 struck NE#2 twice in the face. NE#4 TASED CM#1's back, causing CM#1 to fall. NE#4 ordered CM#1 to stay on the ground, but CM#1 replied, "You can't stop me," while trying to stand up. NE#4 TASED CM#1 again, this time immobilizing him. NE#3 tried to handcuff CM#1, who resisted. NE#3 eventually handcuffed CM#1 with two sets of handcuffs. NE#3 stood CM#1 up and walked him to the rear of a patrol vehicle. CM#1 kicked NE#3's leg, causing NE#3 and himself to fall to the ground. CM#1 said he was done fighting and was placed in the back of a patrol vehicle. CM#1 complained of handcuff discomfort, so an officer removed and reapplied them.

C. Officer Incident Reports and Use of Force Statements

OPA reviewed the related incident reports, including the officers' use of force statements. Those reports were consistent with OPA's BWV observations.

NE#1 wrote that he did not see NE#4 use his TASER because he fell after being punched.



NE#2 wrote that he was also punched in the face. NE#2 stated that he released CM#1 to avoid being TASED when he saw NE#4 approaching CM#1's left side with an unholstered TASER.

NE#3 documented a Type I use of force covering her and CM#1's fall after CM#1 kicked her. NE#3 did not recall CM#1 complaining of pain after the fall.

NE#4 wrote a Type II use of force statement, indicating that his TASER applications were intended to incapacitate, not injure, CM#1. NE#4 explained:

"I believed that [CM#1] was not going to be physically restrained by any officer present due to his escalated behavior, his altered state of mind, his restless swinging of his fists and the physical strength display throughout the incident. I made the decision to deploy taser in protection of other officers and the public."

D. Chain of Command and FRB Review

OPA reviewed the Force Review Board's (FRB) report and the chain of command reviews. FRB found that the force applications were within policy and consistent with department training.

NE#3's use of force was re-classified as *de minimis* from Type I.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.200 - Using Force (1) Use of Force: When Authorized.

The Complainant alleged that NE#1 assaulted CM#1.

An officer's force must be reasonable, necessary, and proportional. SPD Policy 8.200(1). Officers shall only use "objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective." *Id.* Whether force is reasonable depends "on the totality of the circumstances" known to the officers at the time of the force and must be balanced against "the rights of the subject, in light of the circumstances surrounding the event." SPD Policy 8.050. Reasonableness must consider that officers are often forced to make "split-second decisions" in tense, dynamic circumstances. *Id.* The policy also lists several factors that should be weighed when evaluating reasonableness. *See id.* Force is necessary where "no reasonably effective alternative to the use of force appeared to exist" and "the amount of force used was reasonable to effect the lawful purpose intended." *Id.* Last, the force used must be proportional to the threat posed to the officer. *Id.*

Here, NE#1 unsuccessfully tried de-escalating CM#1 before force was used. CM#1 punched NE#1's face twice, causing NE#1 to fall. After that, NE#1 used *de minimis* force to help other officers restrain CM#1. NE#1's contact with CM#1 after the initial struggle was brief and necessary to assist with taking CM#1 into custody. NE#1 did not assault CM#1. Instead, he was attacked by CM#1.



Accordingly, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

Named Employee #1 - Allegation #2

15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.

The Complainant alleged that NE#1 lied in his report.

Officers must document all primary investigations in a report. SPD Policy 15.180-POL-5. Reports must be complete, thorough, and accurate. *Id.*

Here, OPA reviewed the incident report and use of force statements. All of which were complete, thorough, and consistent with BWV.

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #2 - Allegation #1

8.200 - Using Force (1) Use of Force: When Authorized.

The Complainant alleged that NE#2 assaulted CM#1.

CM#1 punched NE#2's face and resisted him after CM#1 punched NE#1. NE#2 used *de minimis* force to restrain CM#1. NE#2 did not assault CM#1. Instead, he was attacked by CM#1.

Accordingly, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

Named Employee #2 - Allegation #2

15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.

The Complainant alleged that NE#2 lied in his report.

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #3 - Allegation #1

8.200 - Using Force (1) Use of Force: When Authorized.

The Complainant alleged that NE#3 assaulted CM#1



NE#3 used *de minimis* force to restrain and handcuff CM#1. NE#3's use of force was initially classified as Type I, then re-classified as *de minimis*. NE#3 did not assault CM#1. Instead, NE#3 was attacked by CM#1 while escorting him to a police vehicle. CM#1 initiated the force that caused NE#3 and CM#1 to fall, not NE#3.

Accordingly, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

Named Employee #3 - Allegation #2

15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.

The Complainant alleged that NE#2 lied in his report.

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #2 - Allegation #1

8.200 - Using Force (1) Use of Force: When Authorized.

The Complainant alleged that NE#2 assaulted CM#1.

NE#4 TASED CM#1 after CM#1 assaulted two police officers and struggled with other officers. NE#4's TASER deployments successfully ceased CM#1's assaultive behavior, preventing further injury to CM#1 or officers. Moreover, FRB and NE#4's chain of command found that NE#4's uses of force were within policy and consistent with training.

Accordingly, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

Named Employee #4 - Allegation #2

15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.

The Complainant alleged that NE#2 lied in his report.

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**